

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Application by Verizon New York Inc.,)
Verizon Long Distance, Verizon Enterprise)
Solutions, Verizon Global Networks Inc., and) CC Docket No. 01-100
Verizon Select Services Inc., for Authorization)
to Provide In-Region, InterLATA Services)
in Connecticut)

EVALUATION OF THE
UNITED STATES DEPARTMENT OF JUSTICE

John M. Nannes
Acting Assistant Attorney General
Antitrust Division

Joseph Farrell
Deputy Assistant Attorney General
Antitrust Division

Communications with respect to this document should be addressed to:

Laury E. Bobbish
Acting Chief

W. Robert Majure
Assistant Chief

Cynthia R. Lewis
John M. Lynch
Attorneys
Telecommunications Task Force

John Henly
Economist
Economic Regulatory Section

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DOJ New York Evaluation	Evaluation of the United States Department of Justice, <i>In re: Application by New York Telephone Company (d/b/a Bell Atlantic - New York), Bell Atlantic Communications, Inc., NYNEX Long Distance Company, and Bell Atlantic Global Networks, Inc., for Authorization to Provide In-Region, InterLATA Services in New York</i> , CC Docket No. 99-295 (Nov. 1, 1999), available at < http://www.usdoj.gov/atr/public/comments/sec271/sec271.htm >.
DOJ Louisiana II Evaluation	Evaluation of the United States Department of Justice, <i>In re: Second Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana</i> , CC Docket No. 98-121 (Aug. 19, 1998), available at < http://www.usdoj.gov/atr/public/comments/sec271/sec271.htm >.

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CTDPUC UNE Combination Tariff Decision	Decision, <i>In re: Application of Bell Atlantic - Proposed Tariff for Unbundled Network Elements - Rebundled Service</i> , Docket No. 99-03-21 (May 17, 2000), <i>attached to</i> Verizon Brief App. B, Vol. 1 as Tab 8C.
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Introduction and Summary

Verizon's application to offer long distance services in Connecticut relies in large part on its successful one for long distance entry in New York. The Department of Justice does not oppose Verizon's section 271 application given the following unique circumstances. First, Verizon's Connecticut service area is extremely limited: Verizon is the incumbent local exchange provider in two communities adjacent to New York that have a total of only 60,000 lines. Second, Verizon serves Connecticut CLECs by means of the same New York-based operations that were reviewed by the Federal Communications Commission in December 1999 when Verizon's section 271 application was approved for New York.¹ In addition, Verizon and the Connecticut Department of Public Utility Control ("Connecticut DPUC") have agreed to

¹ See generally *FCC New York Order*.

implement in Connecticut the outcomes of many continuing and future local competition proceedings pertaining to Verizon's operations in New York.

I. The Local Telecommunications Markets in Verizon's Connecticut Service Area

Verizon is the incumbent local exchange provider in only two Connecticut communities, Greenwich and Byram, which adjoin Verizon's service area in New York. These two communities are part of the New York metropolitan area and are wholly located within LATA 132 -- the local access and transport area that includes New York City, Long Island, and Westchester County, New York. Greenwich and Byram contain approximately 31,000 residential lines and 25,000 business lines, which represent only 2 percent of the access lines in Connecticut.²

Based on Verizon's figures, CLECs serve more than 2,500 lines in Greenwich and Byram, or nearly 5 percent of Verizon's total lines in service.³ This aggregate level of CLEC penetration is approximately half of what it was in New York at the time Verizon filed for section 271 approval there.⁴ The overwhelming majority of these CLEC lines in Connecticut are business

² Verizon Brief at 4, 9-10; Verizon Lacouture/Ruesterholz Decl. ¶ 8. The Connecticut LATA is an independent service area and the vast majority of access lines in the state are served by the incumbent local exchange carrier, Southern New England Telephone Company, which is now owned by SBC. Verizon Taylor Decl. ¶ 28.

³ Verizon Taylor Decl. ¶ 39 & Attach. A at 1 tbl.1.

⁴ In New York, at the time of Verizon's application for section 271 approval, CLECs served approximately 8.9 percent of total access lines. DOJ New York Evaluation at 9. Although market shares are an important factor in the Department's analysis, we have previously opined that small market shares held by competitors or even the absence of entry, standing alone, are neither conclusive evidence that a market remains closed to competition nor a basis for denying an application under section 271. *See, e.g.*, DOJ Oklahoma I Evaluation at 29-30; DOJ Louisiana II Evaluation at 26-27.

lines.⁵ About 2000, or 80 percent, of the CLEC lines are resold lines.⁶ CLECs also provide approximately 550 lines over their own facilities and about 285 lines using unbundled loops.⁷ There are approximately 350 CLEC DSL lines.⁸ CLECs have made virtually no use of the UNE-platform.⁹ This limited use of the UNE-platform in Verizon's Connecticut service area contrasts with that in New York, where the use of the UNE-platform accounts for rapid CLEC expansion.¹⁰

Verizon asserts that it provides the same wholesale products and services at the same rates and in the same manner, using its New York systems, processes, and procedures, because the limited number of lines it owns in Connecticut are part of Verizon's New York operations.¹¹

⁵ Verizon Taylor Decl. Attach. A at 1 tbl.1.

⁶ Verizon Taylor Decl. ¶ 39 & Attach. A at 1 tbl.1.

⁷ *Id.*

⁸ Verizon Brief at 9; Verizon Lacouture/Ruesterholz Decl. ¶ 126.

⁹ Verizon Brief at 47; Verizon Lacouture/Ruesterholz Decl. ¶¶ 284-85.

¹⁰ At the time of Verizon's section 271 application in New York, approximately 152,000 lines there were served through the UNE-platform. *FCC New York Order* ¶ 14. By February 2001, CLECs in New York served approximately 1.5 million additional customers over the UNE-platform. Verizon Brief Attach. A.4.

¹¹ Verizon Brief at 9. Verizon asserts that the wholesale operations and systems that it uses to serve CLECs in Greenwich and Byram are identical to those it uses to serve CLECs in New York. *Id.* at 11. Verizon serves wholesale customers in Greenwich and Byram through the same operations centers used in New York, including the Telecommunications Industry Services Operations Centers, which process CLEC orders, the Regional CLEC Coordination Center, which facilitates and coordinates the provisioning of CLEC orders, and the Regional CLEC Maintenance Center, which supports wholesale trouble reporting and repair issues. *Id.* Verizon reports that these operations centers use the same operations support systems and processes to serve Greenwich and Byram as it uses to serve New York, including the electronic application to application pre-ordering and ordering interfaces, the Service Order Processor used to process CLEC orders, the Service Order Analysis and Control system used to control the provisioning process, the Loop Facility Assignment and Control System used to reserve or assign facilities to an order, the Work Force Administration system used to dispatch field technicians, the Repair Trouble Administration System used to handle repair requests, and the same testing systems to detect and analyze problems on a circuit. Verizon McLean/Wierzbicki Decl. ¶¶ 15, 69, 72, 74.

The central office serving Byram is physically located in Port Chester, NY, and Verizon operates two

Indeed, this is not a case in which the systems used in two states are functionally the same;

Verizon serves wholesale customers in Connecticut using its New York systems.¹²

Further, Verizon has been ordered by the Connecticut DPUC to implement in Connecticut the outcomes of a number of continuing and future New York Public Service Commission (“PSC”) local competition proceedings. Verizon must implement in Connecticut any changes to its New York unbundled network elements (“UNE”) and collocation tariffs within 10 business days following the New York PSC’s approval.¹³ Verizon is required to provide in Connecticut all UNE combinations that it currently provides in New York and to revise its Connecticut UNE-platform tariff to reflect any changes to its New York tariff.¹⁴

In addition, Verizon has committed to the Connecticut DPUC to revise its Connecticut tariffs and its Statement of Generally Available Terms and Conditions to mirror the terms and

garages in Port Chester that perform the operations, installation, and maintenance for customers in Greenwich and Byram (as well as for customers throughout Westchester County, NY). Verizon Brief at 10. Verizon has thirteen employees in the Greenwich central office -- twelve central office technicians and one manager to whom these technicians report -- all of whom report to higher level managers that are stationed in New York. *Id.* Verizon asserts that these employees have received the same training and are subject to the same procedures for central office technicians as Verizon employees based in New York. *Id.*

¹² Verizon Brief at 9. The Commission set out the evidentiary showing necessary to establish that an applicant’s OSS in the state at issue is the same as the OSS in a state where that applicant has already received section 271 approval. *FCC Kansas/Oklahoma Order ¶¶ 103-70*; see also DOJ Kansas/Oklahoma Evaluation at 28-36.

¹³ Verizon Brief at 12; CTDPU UNE Tariff Decision at 10-11; CTDPU Collocation Tariff Decision at 4; CTDPU Comments at 12 (“The CTDPU has approved UNE and collocation tariffs that contain rates, terms and conditions contained in Verizon’s New York tariffs. The CTDPU fully expects these tariffs will continue to mirror Verizon’s New York tariffs.”).

¹⁴ Verizon Brief at 12; CTDPU UNE Combination Tariff Decision at 16; CTDPU Comments at 13.

conditions decided in the New York DSL Collaborative and New York PSC proceedings as well as in decisions implementing the Commission's Line Sharing and UNE Remand Orders.¹⁵

Finally, to ensure adequate performance for Connecticut CLECs, the Connecticut DPUC ordered Verizon to submit performance reports for Connecticut CLECs in the same format as it reports to the New York PSC and the Commission.¹⁶ Verizon is required to import into Connecticut any changes to its performance reporting that are made in New York.¹⁷ In addition, the Connecticut Performance Assurance Plan ("PAP") will remain identical to the New York PAP by automatically incorporating any modifications of the New York PAP.¹⁸

¹⁵ Final CTDPU Decision at 12 & n.24. The New York DSL Collaborative is working to develop, among other things, a specialized ordering process to support line splitting and the migration from other arrangements such as UNE-platform and line sharing to line splitting. *Id.*; Verizon Brief at 43. Verizon has agreed to an implementation schedule that calls for it to conduct a pilot of new OSS capabilities in June 2001 and to implement them throughout the former Bell Atlantic (Verizon East) footprint by October. Verizon Brief at 43; Verizon Lacouture/Ruesterholz Decl. ¶ 237.

¹⁶ Final CTDPU Decision at 11, 15.

¹⁷ *Id.*; Verizon Brief at 13.

¹⁸ The only allowable exception is the amount of monetary penalties for unsatisfactory performance. Verizon Brief at 13, 71; Verizon Canny/Abesamis Decl. ¶¶ 15, 116; Final CTDPU Decision at 15. Although the Connecticut and New York PAPs will remain identical, in application it may be more difficult to make statistically significant determinations that Verizon's performance in Connecticut is out of parity because of the small number of CLEC orders there. The Department also notes that Verizon has no separate Change Control Assurance Plan ("CCAP") for Connecticut. *See* Verizon Canny/Abesamis Decl. ¶ 164. Verizon has stated that it will make bill credits available to CLECs operating only in Connecticut in proportion to their availability in New York, if Verizon's performance in Connecticut is unsatisfactory pursuant to the standards of its New York CCAP. *Id.* However, a CLEC that operates in both New York and Connecticut will not receive bill credits for poor change control performance based on its Connecticut lines. *See id.* The Department recognizes that because there are so few lines in Connecticut this omission will have little practical effect, but in states where the incumbent shares common operational support systems and where the number of lines are greater than in Connecticut, such an omission could diminish the quality of the post-section 271 enforcement remedies available.

II. Recommendations and Conclusions

This application is unique. Verizon provides wholesale products and services to a very limited area of Connecticut using its New York-based operations and has committed to implement in Connecticut the outcomes of many local competition proceedings pertaining to its operations in New York. For these reasons the Department does not oppose Verizon's section 271 application.

Respectfully submitted,

John M. Nannes
Acting Assistant Attorney General
Antitrust Division

Joseph Farrell
Deputy Assistant Attorney General
Antitrust Division

W. Robert Majure
Assistant Chief

John Henly
Economist
Economic Regulatory Section

May 25, 2001

_____/s/_____
Laury E. Bobbish
Acting Chief

Cynthia R. Lewis
John M. Lynch
Attorneys
Telecommunications Task Force

Antitrust Division
U.S. Department of Justice
1401 H Street, NW - Suite 8000
Washington, D.C. 20530
(202) 514-5621

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I hereby certify that I have caused a true and accurate copy of the foregoing Evaluation of the United States Department of Justice to be served on the persons indicated on the attached service list by first class mail, overnight mail, hand delivery, or electronic mail on May 25, 2001.

/s/

Cynthia R. Lewis
Attorney
Telecommunications Task Force
Antitrust Division
U.S. Department of Justice

Service List

Chairman Michael K. Powell
Commissioner Harold W. Furchtgott-Roth
Commissioner Susan Ness
Commissioner Gloria Tristani
Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

Janice Myles
Policy and Program Planning Division
Common Carrier Bureau
Federal Communications Commission
Room 5-B-145
445 12th Street, SW
Washington, DC 20544

Michelle Carey
Chief, Policy and Program Planning Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20544

Kathy Farroba
Deputy Chief
Policy and Program Planning Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20544

Dorothy Atwood
Chief, Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20544

Glen Reynolds
Associate Bureau Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20544

Claudia Pabo
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20544

Chairman Donald W. Downes
Vice-Chairman Glenn Arthur
Commissioner Jack R. Goldberg
Commissioner John W. Betkoski, III
Commissioner Linda Kelly Arnold
Louise Rickard, Executive Secretary
Peter Pescosolido
Seth Hollander
Connecticut Department of Public
Utility Control
Ten Franklin Square
New Britain, CT 06051

Michael E. Glover
Verizon
1320 North Court House Road
Eighth Floor
Arlington, VA 22201

Richard H. Rubin
Senior Attorney
AT&T
Room 1127M1
295 North Maple Avenue
Basking Ridge, NJ 07920

Charles E. Griffin
Director, Government Affairs
AT&T
Suite 1000
1120 20th Street, NW
Washington, DC 20036

Jason D. Oxman, Senior Counsel
Antony R. Petrilla, Regional Counsel
Covad Communications Company
600 14th Street, NW Suite 750
Washington, DC 20005

Chérie R. Kiser
James J. Valentino
Attorneys for Cablevision Lightpath, Inc.
Mintz, Levin, Cohn, Ferris, Glovsky, and
Popeo, P.C.
Suite 900
701 Pennsylvania Avenue, NW
Washington, DC 20004

Leon M. Kestenbaum
Nancy Clay
Sprint Communications Company L.P.
401 9th Street, NW
Washington, DC 20004

Charles C. Hunter
Andrew Isar
Association of Communications Enterprises
1620 I Street, NW Suite 701
Washington, DC 20006

Chuck Hempfling
President
C.A. Hempfling & Associates, Inc.
8 Birch Lakes Drive
Hawthorn Woods, IL 60047

Michael J. Friduss
President
M.J. Friduss & Associates
1555 Museum Drive
Highland Park, IL 60035